



LAW OFFICES OF
CORY H. MORRIS
ATTORNEY &
COUNSELOR AT LAW

Via Electronic Case Filing Only

December 27, 2018

Magistrate Judge Arlene R. Lindsay
Eastern District New York
100 Federal Plaza
Central Islip, NY 11722

Re: Proposed Scheduling Order – Request for Judicial Intervention;

Case: Warren v. Castella Imports et al. Docket No.: 2:18-cv-04740 (JFB-ARL);

Dear Hon. Judge Lindsay:

On behalf of the Plaintiff, I write in regards to the Federal Rule of Civil Procedure 26(f) conference that was scheduled to occur today and to request that Your Honor schedule a Proposed Scheduling Order Conference to ascertain reasonable dates for document production and witness production in this matter.

On or about August 22, 2018, Plaintiff filed a Verified Complaint. Plaintiff sent waivers of service, summons and a complaint to Defendants' Corporate Office on or about August 24, 2018. Plaintiff sent additional courtesy copies of the complaint to Castella Imports' corporate offices on or about September 5, 2018. Plaintiff also provided Plaintiff's Initial Disclosures including hundreds of pages of documentation, on or about September 6, 2018.

Plaintiff spoke to Jonathan D. Henry, an attorney who claimed to represent Defendants, on or about October 4, 2018. Jonathan D. Henry represented he was to be appearing on behalf of the above Defendants and requested, *inter alia*, more time to respond the complaint. Plaintiff granted that request. Jonathan D. Henry provided a waiver of the service of the summons, executed on October 23, 2018. Plaintiff anticipated an answer to Plaintiff's complaint on or before November 9, 2018 and, eventually, Mr. Jonathan D. Henry stated that there is a conflict of interest preventing his firm's appearance on this matter. Plaintiff undertook the costs of service.

Yet another stipulation was produced, entered and filed [D.E. 9] extending the time for Defendants to answer the complaint. On December 7, 2018 an answer was submitted on behalf of all Defendants. Plaintiff spoke with Defense Attorney Christopher Del Bove and the undersigned requested, several times, to meet and confer to create a proposed scheduling order to no avail. Plaintiff then drafted a proposed (see enclosed) scheduling order and sent the same to Defendants' counsel on December 21, 2018.

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To date, Plaintiff served initial disclosures, discovery demands and notices of deposition all of which Defendants cannot provide to Plaintiff any date to which Defendants will either produce documentation, witnesses for deposition or initial disclosures.

Earlier today, the undersigned spoke with Attorney Christopher Del Bove who wished to ascertain potential dates from Plaintiff for Defendants to "redline" rather than provide proposed dates on which Defendants would produce responses to Plaintiff's document demands, named Defendants for their examination under oath, custodians or terms for electronic discovery and/or Defendants' initial disclosures. After providing a template on December 21, 2018 and potential dates on the telephone, Defendants could not provide any date when Defendants could provide, *inter alia*, basic disclosure in this matter. Both parties were unable to reach any resolution and defense counsel stated he would be unable to proceed in a meet and confer until Wednesday of next week. Plaintiff objected to this continued delay.

Plaintiff served Document Demands on December 4, 2018 and expects a response to be forthcoming on or about January 3, 2019. Plaintiff served notices of deposition to take deposition testimony of any of the named Defendant witnesses on January 8, 2019. Defense counsel stated that he has no intention of producing any witness for deposition before the end of January, 2019 for reasons unknown.

Accordingly, in the spirit of the Federal Rules of Civil Procedure, namely Federal Rule of Civil Procedure Rule 1, Plaintiff makes this application to request that the Court Order a scheduling conference where reasonable dates may be so Ordered for fact discovery as per the Federal Rules of Civil Procedure.

Respectfully Submitted,

CORY H. MORRIS

Encl:

cc: Mitchell Ryan Ayes, Esq. (via electronic case filing only)
cc: Christopher Smith Del Bove, Esq. (via electronic case filing only)

Warren v. Castella Imports et al

Received: Friday, December 21, 2018 10:25 AM

From: Cory H. Morris, Attorney Cory.H.Morris@protonmail.com

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Please see the enclosed proposed Rule 26 (f) Order and Notices of Deposition. Should December 27, 2018 not work, please let us schedule our phone call for sometime before the new year to complete the enclosed.

As for depositions, should January 8, 2018 not work, please inform me of what date(s) your witnesses available in January, 2018. I look forward to your response.

Sincerely,
Cory Morris

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